IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6109 of 1986

Date of decision: 16-2-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether their Lordships wish to see the fair copy of the judgment?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

GUJ STATE ROAD TRANSPORT CORPN

Versus

MADHVADAS G TEVANI

Appearance:

None present for Petitioner

None present for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/02/98

ORAL JUDGEMENT

Perused the special civil application and the award of the Industrial Tribunal challenged by the Corporation in this special civil application.

It is really shocking that in the matter where only Rs.41.25 ps. are to be recovered by the Corporation from the respondent workman for some loss of the property of the Corporation, this special civil application is filed. The Corporation is not expected to waste public money in the matter of a nature where the Industrial Tribunal has only held that the order of the Corporation to direct the respondent workman to pay Rs.41.25 ps. towards loss suffered by the Corporation is illegal. For this small amount the Corporation would have spent a very large amount by way of legal expenses. Be that as it may.

2. The total loss which was to be recovered from the respondent was Rs.82.50 ps. That is the loss what is alleged suffered by the Corporation because of the loss of some articles. In appeal filed by the respondent workman that amount was reduced to Rs.41.25 ps, and the workman was not satisfied and he raised industrial dispute. Under the impugned award the recovery of Rs.41.25 ps. from the workman concerned was ordered to be set aside. The Labour Court has recorded the finding of fact that there was no proper foolproof arrangement for safe custody of the parcels. It was also recorded by way of finding of fact that there was possibility of loss due to wrong despatch. Another factor noticed was that due to Diwali time large number of parcels were received. The Tribunal further held that there was no evidence produced at the enquiry that the workman was actually responsible for the loss, and the finding of the inquiry officer to that extent was base don surmises and conjectures. After recording these finding of facts the Tribunal has come to the conclusion that to hold the workman responsible for the loss is not proper. Another important fact has also been given in support of this conclusion by the Tribunal, that the workman's duty was to receive articles and not for their subsequent transhipment to the places, which work was attended by some other workmen.

3. Taking into consideration all the aforesaid aspects of the matter the Tribunal reached to the conclusion that the charges which were framed against the workmen were not proved, and as such there is no question

of giving any penalty by way of order for recovery of the loss said to have been suffered by the petitioner. I do not find any illegality in the findings arrived at by the Industrial Tribunal so as to call for interference of this court sitting under Article 227 of the Constitution of India. The petition is wholly misconceived.

4. In the result the petition is dismissed. Rule discharged. No order as to costs.

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